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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,449	02/19/2002	Gary W. Ferguson	FET 345	9169

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EXAMINER

DAVIS, DAVID DONALD

ART UNIT PAPER NUMBER

2652

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/079,449

Applicant(s)

FERGUSON, GARY W.

Examiner

David D. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 7-22, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7-22, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08).  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

1. The indicated allowability of claims 1, 7-22, 30 and 31 is withdrawn in view of the newly discovered reference(s) to Nakano (JP 8-96410); Fujii et al (US 5,218,192) and Kaneda et al (US 6,404,707). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7-22, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneda et al (US 6,404,707) in view of Nakano (JP 08-96410). Kaneda et al shows in figure 11A a disk data storage media including a disk 10 having first and second disk surfaces and an optical disk edge surface with at least one of the first and second disk surfaces being an optical disk surface formed to store a first set of data, as described in column 9, lines 36-44. The edge surface of Kaneda et al is shown to have a substantially smooth surface with a printed layer including second set of data 990, wherein the first set of data can be used independently of the second set of data. The disk edge surface is readable and writable. See column 10, lines 13-19. Kaneda et al shows in figure 11A that the first and second disk surfaces have a maximum diameter.

Kaneda et al, however, is silent as to the substantially smooth surface being an underlying layer. Kaneda et al is also silent as to the disk edge surface being enlarged, within the confines

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of the maximum diameter and the enlarged disk edge surfaces being formed by increasing the thickness of the disk adjacent the disk edge.

Nakano shows in figures 1 and 4 layer 3 having a disk edge surface being enlarged, within the confines of the maximum diameter and the enlarged disk edge surfaces being formed by increasing the thickness of the disk adjacent the disk edge.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the disc of Kaneda et al with a layer and a disk edge surface, being enlarged and within the confines of the maximum diameter as taught by Nakano, thereby providing the disc of Kaneda et al with an underlayer. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide a disc having a substantially smooth surface with a layer including a second set data thereby providing the disc with an underlayer, "to prevent an optical disk from corroding at the outer circumference edge". See the Abstract of Nakano.

#### ***Response to Arguments***

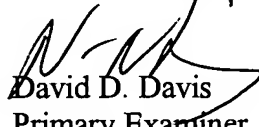
4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is 571-272-7572. The examiner can normally be reached on Monday thru Friday between 7:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David D. Davis  
Primary Examiner  
Art Unit 2652

ddd